

DOUGLAS A. WINTHROP (SBN 183532)
 Douglas.Winthrop@arnoldporter.com
 JEREMY T. KAMRAS (SBN 237377)
 Jeremy.Kamras@arnoldporter.com
 JOSEPH FARRIS (SBN 263405)
 Joseph.Farris@arnoldporter.com
ARNOLD & PORTER KAYE SCHOLER LLP
 Three Embarcadero Center, 10th Floor
 San Francisco, CA 94111-4024
 Telephone: 415.471.3100
 Facsimile: 415.471.3400

WHGC, P.L.C.
 Jeffrey C.P. Wang (SBN 144414)
 JeffreyWang@WHGCLaw.com
 Michael G. York (SBN 89945)
 MichaelYork@WHGCLaw.com
 Kathleen E. Alparce (SBN 230935)
 KathleenAlparce@WHGCLaw.com
 Jessica A. Crabbe (SBN. 263668)
 JessicaCrabbe@WHGCLaw.com
 1301 Dove Street, Suite 1050
 Newport Beach, CA 92660
 Tel. (949) 833-8483; Fax: (866) 881-5007

Attorneys for Defendants XINGKE ELECTRONICS
 (DONGGUAN) CO., LTD., formerly known as
 SINCO ELECTRONICS (DONGGUAN) CO., LTD.,
 LIEW YEW SOON aka, MARK LIEW, NG CHER
 YONG. aka CY NG, and MUI LIANG TJOA aka ML
 TJOA

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

SINCO TECHNOLOGIES PTE LTD.,

Plaintiff,

vs.

SINCO ELECTRONICS (DONGGUAN) CO.,
 LTD.; XINGKE ELECTRONICS
 (DONGGUAN) CO., LTD.; XINGKE
 ELECTRONICS TECHNOLOGY CO., LTD.;
 SINCOO ELECTRONICS TECHNOLOGY CO.,
 LTD.; MUI LIANG TJOA (an individual); NG
 CHER YONG aka CY NG (an individual); and
 LIEW YEW SOON aka MARK LIEW (an
 individual),

Defendants.

Case No. 3:17-CV-05517-EMC

Action Filed: September 22, 2017

**DEFENDANTS' RESPONSE TO COURT'S
 ORDER OF OCTOBER 26, 2021 RE JURY
 INSTRUCTIONS**

Date: October 20, 2021
 Time: 3:00 p.m.
 Place: Courtroom 5, 17th Floor

Judge: Honorable Edward M. Chen

Trial: November 1, 2021

1 Solely for the purpose of preserving a clear record and without rearguing the point,
 2 defendants reassert their objections to any instruction regarding the plaintiff's purported claim for
 3 "passing off" or unfair competition.

4 Attached are true and correct copies of *Public Prosecutor v. Jurong Country Club* (2019) 5
 5 SLR 554, *BNM v. Nat'l Univ. of Singapore* (2014) 4 SLR 931, and *National University Hospital*
 6 *(Singapore) PTE Ltd. v. Cicada Cube PTE Ltd.* (2017) SGHC 53.

7 Defendants urge the court to drop the "false advertising" claim for the reasons set forth in the
 8 Court's order.

9 Finally, defendants believe that any award with respect to the individual defendants of both
 10 statutory and compensatory damages would be duplicative and contrary to the language of 15 U.S.C.
 11 § 1117(d) that statutory damages are available "*instead of* actual damages and profits." *See*
 12 *Tavaglione v. Billings* (1993) 4 Cal. 4th 1150, 1158-59 (Plaintiff "is not entitled to more than a single
 13 recovery for each distinct item of compensable damage supported by the evidence. Double or
 14 duplicative recovery for the same items of damage amounts to overcompensation and is therefore
 15 prohibited.")(internal citation omitted); *Indu Craft, Inc. v. Bank of Baroda*, 47 F.3d 490, 497 (2nd
 16 Cir. 1997) ("A plaintiff seeking compensation for the same injury under different legal theories is of
 17 course entitled to only one recovery"); *MuscleTech Research and Dev. Inc. v. East Coast*
 18 *Ingredients, LLC*, 2007 WL 655755, *5 (W.D.N.Y. 2007)(same); *cf. Joe Hand Prods., Inc. v.*
 19 *Nguyen*, 2012 WL 1183738, *3 (N.D. Cal. 2012)(noting that "[s]everal courts have denied recovery
 20 for conversion damages as 'cumulative' where statutory damages were already awarded").

21 Dated: October 28 2021.

ARNOLD & PORTER KAYE SCHOLER LLP

22 By: /s/ Douglas A. Winthrop
 23 DOUGLAS A. WINTHROP

24 *Attorneys for Defendants*
 25 XINGKE ELECTRONICS (DONGGUAN) CO.,
 26 LTD., formerly known as SINCO
 27 ELECTRONICS (DONGGUAN) CO., LTD.,
 28 LIEW YEW SOON aka, MARK LIEW, NG
 CHER YONG. aka CY NG, and MUI LIANG
 TJOA aka ML TJOA